IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 01.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.496 of 2006

Santhi @ Saraswathi ... Petitioner

vs.

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2. The District Magistrate
and District Collector,
Namakkal District,
Namakkal. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records relating to the order of detention dated 17.04.2006 made in C.M.P. No.8/BL/2006(M1) passed by the 2nd respondent herein, quash the same by producing the body of the detenu who is the petitioner's husband by name Kathirvel, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner is the wife of the detenu by name Kathirvel. She challenges the impugned order of detention dated 17.04.2006, detaining her husband as "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents.

3. At the fore most, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu, which ultimately vitiates the impugned order of detention.

4. With reference to the said contention, learned Additional Public Prosecutor has placed the details, which show that the representation, dated 24.04.2006, of the detenu was received by the Government on 27.04.2006; Remarks were called for on 28.04.2006 and received on 05.05.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 10.05.2006. However, the Minster for Prohibition and Excise passed orders only on 23.05.2006. Rejection Letter was prepared on the same day, sent to the detenu on 24.05.2006 and served to him on 26.05.2006. As rightly pointed out, though the Under Secretary and the Deputy Secretary dealt with the File even on 10.05.2006, the same was disposed of by the Minister concerned only on 23.05.2006. We are of the view that the the delay occurred due to the placidity between 10.05.2006 and 23.05.2006 is on the higher side, which vitiates the ultimate detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Govt., of Tamilnadu, Prohibition & Excise Dept., Chennai-9.
2. The Dt. Magistrate and Dt. Collector, Namakkal.
3. The Superintendent, Central Prison, Salem (in duplicate for communication to the detenu).
4. The Joint Secretary, Public (Law & Order) Dept., Chennai-9.
5. The Public Prosecutor, High Court, Madras.

+ one cc to Mr.N.Manokaran, Advocate, Sr.No.34206/06.

HCP. No.496 of 2006.

rsm/19.8.2006

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